

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6150 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

BHAVESH KARSANBHAI SOLANKI

Versus

GUJARAT AGRICULTURAL UNIVERSITY

Appearance:

MR JAYANT PATEL for Petitioners
MR DG CHAUHAN for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 2
MR PK SHUKLA, AGP for Respondent No. 3

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 11/10/1999

ORAL JUDGEMENT

The petition was already admitted on 19.8.1999
and notice as to interim relief was made returnable on
30.8.1999. Today, the Court has heard the learned counsel
for the parties on merits and proceeds to dispose of this
petition finally.

2. The Gujarat Agricultural University (hereinafter

referred to as "the respondent-University" or "the University") conducts the under-graduate as well as post-graduate courses in agricultural sciences and allied disciplines. This petition is filed by students who have passed the B.Sc. (Agricultural) examination, the results of which were declared in June, 1999. The petitioners have challenged the change in decision of the respondent University increasing the eligibility criteria from 5.5 to 6.0 of the over all grade called "OGPA" after the advertisement was issued and the last date for submitting applications was over and also after the admission process in the other agricultural Universities in the adjoining States was over.

3. For granting admissions to the post-graduate courses in the agricultural disciplines, the respondent-University conducts entrance test as per the relevant rules and scheme which are set out in the prospectus at Annexure II. The relevant rules read as under :-

"4. MODE OF ADMISSION

4.1 Eligible applicants will be required to appear for the entrance test and interview at their own cost and when called for.

4.2 The admission will be decided on Consideration of the Score (OGPA) at the Bachelor's or Master's degree examination as the case may and the score in the written test, interview and as per intake capacity.

4.3 A candidate to become eligible for admission should secure a minimum of 50% marks in the entrance test examination.

4.4 For purpose of eligibility for admission to Post graduate courses, a certificate as to satisfactory character and conduct from the University, College from which the candidate has obtained the degree should be submitted alongwith the application.

The decision of the Dean of Post Graduate Studies in respect of admission will be final."

3. It appears that the matter had come up before the Board of Studies on 12.1.1998 to consider the question whether the eligibility criteria of 6.0 OGPA for appearing at the entrance test examination for admissions to post-graduate courses should be reduced or not. At its meeting held on 12.1.1998, the Board of Studies decided to continue the status quo by not reducing the eligibility criteria. The matter thereafter came to be considered before the Academic Council on 28.4.1999 and the Academic Council recommended to the Board of Management to reduce the eligibility criteria from 6.00 to 5.50. The said recommendation came to be considered and accepted by the Board of Management at its meeting held on 11.6.1999. On the basis of the said decision, the respondent University issued advertisement on 24.7.1999 inviting applications from students who had passed B.Sc. (Agri.) examination with 5.50 OGPA. The last date for submitting applications was 9.8.1999. The petitioners, six in number, amongst other students numbering about 30, who had obtained the OGPA between 5.50 and above but less than 6.00 applied in response to the advertisement over and above the students who had obtained 6.00 OGPA. It appears that thereafter the existing post-graduate students went on strike for protesting against the decision of the respondent-University to reduce the eligibility criteria from 6.00 to 5.50. The petitioners herein apprehending that the respondent University will bow down to the pressure of agitationists filed this petition on 17.8.1999. On 19.8.1999, this Court admitted the petition and issued notice as to interim relief returnable on 30.8.1999. Before the returnable date, however, on 20.8.1999, the Board of Management of the respondent-University reconsidered its previous decision and fixed the eligibility criteria at 6.00 OGPA for admissions to the Master's degree courses. The petitioners, have, therefore, amended the petition to challenge the change in decision which is at Annexure III to the reply affidavit.

4. Mr Jayant Patel, learned counsel for the petitioners has submitted that -

(i) once the Board of Management accepted the recommendation of the Academic Council and reduced the eligibility criteria from 6.00 to 5.50, it was not open to the Board of Management to review its decision and to change the criteria.

(ii) Without prejudice to the above submission, it is

submitted that even if the Board of Management had the power to review its decision, the said power could not have been exercised in order to pacify the agitationists with the consequence to render the eligible candidates ineligible for admissions to post-graduate courses.

(iii) In any view of the matter, in the facts and circumstances of the case, the impugned decision could not have been taken by the Board of Management, when the petitioners who were eligible for admissions to post-graduate courses in other Agricultural Universities in neighbouring States like Rajasthan and Maharashtra lost their chance to secure admissions in those universities where the last date for submitting application forms was 28.6.1999 and 30.6.1999 respectively.

(iv) The last contention was that this eligibility criterion could not have been changed after the advertisement was issued by the respondent University and the last date for submitting applications was over. Strong reliance is placed on the decision of the Hon'ble Supreme Court in *Gurdeep Singh vs. State of J & K.*, 1995 Supp.(1) SCC 188.

5. On the other hand, Mr DG Chauhan, learned counsel for the respondent-University has vehemently opposed the petition and has submitted that -

(i) The impugned decision of the Board of Management of the respondent University is a policy decision taken by the highest policy making body in the University and, therefore, in a petition under Article 226 of the Constitution, this Court would not sit in appeal over such decision.

(ii) In the past the eligibility criterion was 6.00. The Board of Studies had also taken the decision on 12.1.1998 not to change the criteria and, therefore, when such expert body had taken that decision, there was no justification for reducing the criterion merely on the basis of some representations and, therefore, the Board of Management was justified in restoring the previous eligibility criterion.

(iii) Even as per the earlier requirement of 6.00 OGPA as per the impugned decision, there are as many

as 298 eligible candidates against the intake capacity of only 145 students for M.Sc. (Agri.) course and, therefore, also the petition is academic.

6. It may prima facie appear that the last contention urged on behalf of the respondent-University may be required to be accepted because even on the basis of the impugned minimum requirement of 6.00 OGPA, there are as many as 298 eligible candidates as against the intake capacity of only 145 students. However, the question is not academic because even as per the scheme of the post-graduate admissions under the respondent University, admissions are not granted only on the basis of the marks or OGPA grade obtained at the B.Sc. (Agri.) examination. As already pointed out above, admissions are granted on the basis of the marks at the B.Sc. (Agri.) examination, marks obtained at the written test (which is a part of the entrance test examination) and oral interviews. Hence, if a student who has obtained less than 6.00 OGPA, but of course more than 5.50 OGPA, may secure more marks at the written test and the oral interview and, therefore, such a student may as well stand higher in the merit list for post-graduate admissions which is prepared on the basis of the performance judged by the aforesaid three criterion.

Secondly, it is true that in academic matters of this nature, this Court does not sit in appeal and, therefore, the question whether the eligibility criteria for admissions to post-graduate courses should be 6.00 or 5.50 is a matter which would normally fall within the domain of academic authorities. However, in the facts and circumstances of the case, the Court finds considerable substance in the grievance of the petitioners that after having taken the decision on 11.6.1999 by the Board of Management that as per the recommendation of the Academic Council, the minimum eligibility criterion for admissions to post-graduate courses would be 5.50, the petitioners did not apply for admission to post-graduate courses in the Agricultural Universities in the States of Rajasthan and Maharashtra where the last dates for submitting applications were 28.6.1999 and 30.6.1999 respectively. In fact, the respondent University itself issued advertisement on 24.7.1999 inviting applications from students who have passed B.Sc. (Agri.) examination with 5.50 OGPA and such applications were accepted as per the advertisement dated 9.7.1999. It is the case of the petitioners that there are about 30 students who are similarly situate as the petitioners. In this factual backdrop, allowing the

decision dated 20.8.1999 of the Board of Management of the respondent University to operate for this year would mean that the petitioners would lose their chance for securing admissions to post-graduate courses not only in Gujarat, but also in Rajasthan and Maharashtra. It, therefore, appears to the Court that only on this ground, this petition deserves to be partly allowed by directing the respondent-authorities not to implement the decision dated 20.8.1999 at Annexure III to the reply affidavit for the academic year 1999-2000.

7. The petition is accordingly partly allowed. The respondent-authorities are directed not to implement the decision dated 20.8.1999 of the Board of Management regarding change in the eligibility criterion of OGPA from 5.50 to 6.00 for admissions to M.Sc. (Agri.) course for the academic year 1999-2000.

It is clarified that this Court has not disturbed the aforesaid decision in so far as its applicability for the future year/s is concerned.

8. Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

Direct Service is permitted.

October 11, 1999 (M.S. Shah, J)
sundar/-